



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

May 3, 2013

Memorandum for: Deputy Commissioner, Trials

CHAN

Re: **Police Officer Kenneth Stella**  
Tax Registry No. 896725  
28<sup>th</sup> Precinct  
Disciplinary Case No. 2011-5715

The above-named member of the service appeared before Deputy Commissioner Martin G. Karopkin on March 13, 2013 and was charged with the following:

**DISCIPLINARY CASE NO. 2011-5715**

1. Said Police Officer Kenneth Stella, while assigned to the 28<sup>th</sup> Precinct, on or about and between March 23, 2010, and July 30, 2010, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer on multiple occasions assisted in the prevention of the processing and adjudication of multiple summonses issued to multiple individuals.

**P.G. 203-10, Page 1, Paragraph 5**

**PROHIBITED CONDUCT  
GENERAL REGULATIONS**

In a Memorandum dated April 4, 2013, Deputy Commissioner Martin G. Karopkin found the Respondent Guilty of Specification No. 1, in Disciplinary Case No. 2011-5715. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

Police Officer Stella's misconduct involved the prevention of the processing and adjudication of summonses and warrants a greater penalty. Therefore, Police Officer Stella shall forfeit five (5) suspension days to be served, twenty-five (25) vacation days (thirty (30) total days), and one (1) year dismissal probation, as a disciplinary penalty.

Raymond W. Keny  
Police Commissioner



POLICE DEPARTMENT

April 4, 2013

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Kenneth Stella  
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28<sup>th</sup> Precinct  
Disciplinary Case No. 2011-5715  
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P.G. 203-10, Page 1, Paragraph 5 PROHIBITED CONDUCT  
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The Department was represented by Michelle Alleyne, Esq., Department Advocate's Office, and Respondent was represented by Stuart London, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent, a 23 year uniformed member of the service (UMOS), is currently assigned to the 28 Precinct, where he has worked since graduating from the Police Academy in 1990. Respondent testified that for most of his career he has been on patrol and his current assignment is the Auxiliary Coordinator, which he stated is a "volunteer unit for civilians." Respondent acknowledged that he has a part in training the civilians there. Respondent testified that other than the charges in this case, he has never been in the trial room facing Charges and Specifications.

Respondent stated that he had been on the streets for approximately seventeen and-a-half years and he acknowledged that during those years he had an occasion to issue summonses. Respondent testified that they were required to issue between 15 to 20 summonses a month. Respondent acknowledged that he had prepared a calculation of approximately how many summonses he had issued and what the monetary amount would be. Respondent stated,

If I issued – I took the lower amount. It was 15 to 20, so on any given month, I gave between 15 and 20, but I just took a number of 15 say a month just to work with, times 12 would have been 180 summonses issued a year. 180 for 17 years would total 3,060 summonses issued for the 17 years of patrol time. If we took half of that amount, which would total 1,530 summonses, being that 95 percent of my summonses were double parkers, which has a value of a fine of \$115, \$115 times 1,530 tickets which is half of the 3,060, I would have generated over the 17 years there over \$175,950 in revenue towards the city. If we took the full amount, the 3,060, I would have generated \$351,900 towards revenue towards the city.

Respondent acknowledged that he is aware of a Department directive that is currently in existence which details what the penalties a UMOS would receive if a ticket is dismissed at Traffic Violations Bureau at TVB. Respondent testified that the only decision the Department has made so far regarding any kind of summonses is in regard to moving summonses at TVB.

Respondent stated, "I brought in the sheet that dictates what the penalty will be for non-motorists appearances, which is the same as saying a ticket." Respondent testified that he believed the disciplinary penalties indicated in the document were as follows: If one motorist's ticket was dismissed the penalty was three days, if it was two motorists the penalty was five days, if it was three motorists the penalty was eight, and he acknowledged that an officer would receive Charges and Specifications if it was four or more motorists. (Respondent's Exhibit [RX] A).

Respondent testified that in relation to the two tickets in question in this case, on March 23, 2010, he stated he received a phone call from Police Officer Luis Rodriguez. Rodriguez had asked Respondent to stop the processing of a ticket that was issued to one of Rodriguez's member's relatives "or something like that." Respondent testified that he did not know or socialize with Rodriguez nor had he ever been to Rodriguez's house. Respondent acknowledged that the only reason why Rodriguez had contacted him was because Respondent was a delegate in the command. Respondent also acknowledged that the summons was a parking ticket and it was "taken care of." When asked if "taken care of" meant it was taken out of the box, Respondent stated, "Yes, the summons process was stopped." Respondent denied receiving any monetary compensation for this and stated, "It was just a courtesy that was given to each other."

Respondent acknowledged that on April 5, 2010, he made a phone call to Police Officer Mike Hernandez, because one of Respondent's officers had received a ticket from an officer in another command. Respondent stated, "I don't know why they got it, I don't know, but they asked me to take care of it, and I requested that he pull that ticket." Respondent acknowledged that once again the only reason why he was approached was because of his status as a union delegate. Respondent denied that the ticket was for a family member or friend of his.



Respondent acknowledged that these were the only two tickets that were on tape and played for him during his official Department interview.

Respondent, when asked, with respect to his duties and responsibilities currently, if there are any courtesies being extended now, he stated, "Negative." Respondent testified that he believed the process changed in 2010, because of the "scanning process".

Respondent stated that the penalty of 25 vacation days, 5 suspension days, and 1 year dismissal probation is very harsh in this case because:

I dedicated, you know, my life to working properly. I have done everything I can to uphold the law, and made my arrests when I had to. I have given numerous tickets and given a lot of revenue to the city just by myself. I mean, and I just feel that after 23 years of service, I am being treated like a criminal, and there is no reason why I should have a suspension or any probation at all for two parking tickets considering I have issued over 3,000 tickets in my career. And I just feel that it's just, you know, I don't deserve it. It's excessive. It's too extreme. I mean, I have gotten 4.0 to 4.5 evaluations my whole career. I've never been in trouble with anybody or anything. I just feel that it's kind of like a slap in my face for all the work that I have done.

Respondent testified that he has been a delegate for over 10 years and he acknowledged that these penalties are much more severe than the penalties being handed out if an officer did not show up at TVB.

On cross-examination, Respondent acknowledged that in his seventeen-and-a-half years on the street he had issued numerous summonses. Respondent testified that 15 to 20 summonses a month were required from every patrol officer. Respondent acknowledged that his summonses generated substantial revenue for the city. Respondent further acknowledged that those summonses that generated revenue were summonses that were actually processed in that they were submitted for processing and adjudicated.

Respondent acknowledged that when he received the call from Rodriguez on March 23, 2010, that the purpose of that call was to actually stop a summons from being processed. Respondent also acknowledged that this summons that he complied with the request to stop the processing would not have generated revenue for the City.

Respondent acknowledged that on April 5, 2010, when he reached out to Hernandez to ask that a summons be stopped from being processed, he was aware that at that time if his request was complied with, that that summons would not generate revenue for the city. When Respondent was asked what his understanding was with regards to the current Department policy when a member of the service receives a Schedule "B" Command Discipline and a penalty of three days for TVB matters he stated, "Because the City processed the summons, and because they didn't appear this person didn't have to pay the fine." Respondent was then asked if it is only when UMOS don't appear or if they go to court and don't have their paperwork to properly testify and he stated, "From my understanding, the only thing the Department has made a decision on, as I stated before, was that. That is like a template for us or a guideline for us. For any other summonses, there is nothing else the Department has made a decision on." Lastly, Respondent was asked if the TVB matters that he was familiar with are where UMOS go to court for summonses and are not prepared and he stated, "I believe the only guideline they have is that one, so I assume it would be the same thing whether they were prepared or not. There is nothing else the Department has come down on. So that kind of like is the template for everything regarding summonses as of right now."

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on April 25, 1990. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Assistant Department Advocate (Advocate) has recommended that the penalty be the loss of 25 vacation days, 5 suspension days to be served and one year dismissal probation.


The instant case involves the "fixing" of two summonses. Respondent has argued in mitigation that he has over twenty years of service without blemish. He further argues that over the course of these years he has issued summonses that garnered significant revenue for the City. Respondent estimates an amount between \$175,950 and \$351,900.

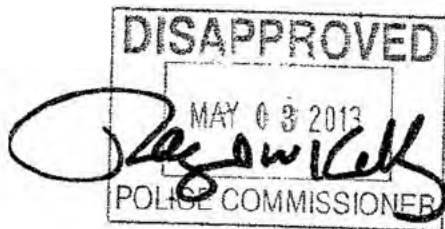
I do not see these as mitigating factors. However there are mitigating factors in this case. Respondent has represented and the Advocate has concurred that both of the summonses involved were for parking violations. Parking violations are less serious than moving violations. Parking violations, as a general rule, do not involve issues of safety while moving violations, as a general rule, do. Both the number of summonses which were two, and that fact that both involved parking violations do constitute a mitigating factor that merits recognition.

On the other hand, as the Advocate has argued, the case does involve tampering with the legal process and significant penalty is appropriate. Balancing these issues, it is recommended that Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Section 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's

discretion and may be terminated at anytime without further proceedings. Further, this Court recommends that Respondent forfeit 25 vacation days.

Respectfully submitted,

  
Martin G. Karopkin  
Deputy Commissioner Trials






POLICE DEPARTMENT  
CITY OF NEW YORK

From: Deputy Commissioner -- Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER KENNETH STELLA  
TAX REGISTRY NO. 896725  
DISCIPLINARY CASE NO. 2011-5715

Respondent received an overall rating of 4.0 "Highly Competent" on his last three annual performance evaluations. He has been awarded one medal for Excellent Police Duty. [REDACTED]

Respondent has no prior formal disciplinary record.

For your consideration.

  
Martin G. Karopkin  
Deputy Commissioner -- Trials